



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/706,645	11/06/2000	Dimitri Kanevsky	13808(YOR920000454US1)	8227

7590 04/06/2004

Richard L Catania Scully Scott Murphy & Presser
400 Garden City Plaza
Garden City, NY 11530

EXAMINER

OUELLETTE, JONATHAN P

ART UNIT	PAPER NUMBER
----------	--------------

3629

DATE MAILED: 04/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/706,645

Applicant(s)

KANEVSKY ET AL.

Examiner

Jonathan Ouellette

Art Unit

3629

My

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6-10,12-16 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-10,12-16 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Claims 5, 11, and 17 have been cancelled; therefore, Claims 1-4, 6-10, 12-16, and 18 are currently pending in application 09/706,645.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
3. **Claims 1-4, 6-10, 12-16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brewster et al. (US 5,960,337) in view of Lemelson et al. (US 6,028,514).**
4. As per independent Claims 1, 7, and 13, Brewster discloses a method (system, program storage device) of providing help to people, comprising the steps: (a) organizing a network of people/volunteers (service provider) for helping people, each of the people/volunteers (EAS responder) having a portable, wireless communications device (abstract, C5 L25-30, C5 L51-62); (b) establishing a second database identifying a plurality of volunteers, and for each of the volunteers, identifying at least one specific emergency (disability) said volunteer is willing to assist (abstract,

C7 L5-14); (c) after the second database is established at least one person, using one of the wireless communications devices (mobile phone) to transmit a request for help (abstract); and (d) in response to said request, matching the person making the request with at least one of the volunteers by finding, through said database, one of the volunteers who is willing to assist with the specific emergency (disability), and said at least one of the volunteers receiving the request for help via one of the wireless communications devices (abstract, C4 L38-67, C5 L25-30, C5 L51-62, C7 L1-14, C8 L18-41, Claims 15-18).

5. Brewster fails to expressly disclose people with “disabilities” (participating subscriber) nor establishing a first database identifying and having information about a plurality of people with disabilities, identifying at least one specific disability said person has.
6. However, Lemelson does disclose a system for helping people with medical problems (disabilities) and establishing a database having information about the people with disabilities, said information identifying for each of the persons with disabilities, at least one specific disability said person has (C7 L40-67, C8 L1-16).
7. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include people with “disabilities” (participating subscriber) and establishing a first database identifying and having information about a plurality of people with disabilities, identifying at least one specific disability said person has, as disclosed by Lemelson, in the system disclosed by Brewster for the advantage of offering a method (system, program storage device) of providing help to people with

disabilities, with the ability to provide more direct and accurate care to the injured or disabled person, by matching them to a caretaker (volunteer) with the information and skills necessary to most efficiently and effectively help the person in need (Lemelson: C4 L29-49).

8. Brewster and Lemelson fail to disclose *using a matching server to use information from the pre-established first and second databases to match the person making the request with at least one of the volunteers*
9. However, Brewster disclosed forming a database (second database) of emergency personnel/volunteers (EAS responders) and Lemelson discloses forming a database (first database) of people with medical problems, and both Brewster and Lemelson disclose maintaining the databases at an emergency control center which coordinates appropriate assistance to problems (Lemelson: (C4 L46-49), Brewster: Claim 1).
10. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the references of Brewster and Lemelson to form one system wherein an emergency operator could match entries from a first (medical information database) and second database (respondent qualifications database) in order to send appropriate personnel to people in need.
11. Furthermore, It was known at the time of the invention that merely providing an automatic means to replace a manual activity which accomplishes the same result is not sufficient to distinguish over the prior art, *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958). For example, simply automating (matching server) the matching of the first and second databases gives you just what you would expect from

the manual step described above (combination of Brewster and Lemelson). In other words there is no enhancement found in the claimed step. The end result is the same as compared to the manual method. A computer can simply iterate the steps faster. The result is the same.

12. Therefore, It would have been obvious to a person of ordinary skill in the art at the time of the invention to automate the matching step because this would speed up the process of matching people in need with people who can help, which is purely known, and an expected result from automation of what is known in the art.
13. As per Claims 2, 8, and 14, Brewster and Lemelson disclose wherein step (c) includes the step of one of the persons with disabilities using one of the wireless communications devices to transmit a request for help to the network; and step (d) includes the step of the network identifying said one of the persons with disabilities to said one of the volunteers via one of the wireless communications devices.
14. As per Claim 3, 9, and 15, Brewster and Lemelson do not expressly show the volunteers providing at least one service selected from the group comprising: i) reading a newspaper or other information to a blind person, ii) translating a conversation into sign language, and iii) bringing requested items to one of the persons with disabilities.
15. However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The method of providing help to people with disabilities would be performed regardless of the type of service/help provided. Thus, this descriptive material will not distinguish the claimed invention

from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

16. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the person with a disability a service comprising one of the following: i) reading a newspaper or other information to a blind person, ii) translating a conversation into sign language, and iii) bringing requested items to one of the persons with disabilities, because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the service does not patentably distinguish the claimed invention.
17. As per Claims 4, 10, and 16, Brewster and Lemelson disclose using a global positioning system to identify the location of said one of the persons with disabilities, and to identify one or more of the volunteers in the vicinity of said one of the persons with disabilities.
18. As per Claims 6, 12, and 18, Brewster and Lemelson disclose wherein the matching step includes the step of: using a matching server to search the people with disabilities and the volunteers to find a list of candidate volunteers and methods of help; sending a request to each of the candidate volunteers; interacting with the candidate volunteers to find a final choice volunteer; and sending a final request to the final choice volunteer.

19. Applicant's arguments filed 1/23/04, regarding Claims 1-4, 6-10, 12-16, and 18, have been considered but are moot in view of the new ground(s) of rejection.
20. Applicant's amendment (using a matching server to use information from the pre-established first and second databases) necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
21. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Conclusion

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (703) 605-0662. The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.

Art Unit: 3629

23. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-3597 for After Final communications.
24. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-5484.

jo
April 1, 2004

**JOHN G. WEISS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600**